

CITY OF HAYWARD AGENDA REPORT

Meeting Date <u>09/09/04</u> Agenda Item <u>2</u>

TO:

Planning Commission

FROM:

Erik J. Pearson, AICP, Associate Planner

SUBJECT:

Site Plan Review No. PL-2002-0487 & Variance No. PL-2002-0488 – Request

to Build a Single-Family Residence with a 12-Foot Front Yard where 20 Feet Is

Required – Mr. & Mrs. John Johnson (Applicant/Owner)

The Property Is Located at 26446 Parkside Drive, near Tribune Avenue, in a

Residential Natural Preservation (RNP) Zoning District

RECOMMENDATION

Staff recommends that the Planning Commission:

- 1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303 New Construction or Conversion of Small Structures; and
- 2. Approve the site plan review and variance applications subject to the attached findings and conditions of approval.

BACKGROUND

Site Plan Review and Variance applications (SPR & VA 77-184) were approved for the property in 1977 by the Board of Adjustments. The house was to be a two-story building that was not designed to follow the slope of the lot and the variance allowed the house to be 20 feet from the front property line when 30 feet was required. The property is located in a Residential Natural Preservation (RNP) zoning district. In 1984, the standards of the RNP District were amended to reduce the required front yard from 30 feet to 20 feet. The City's Hillside Design Guidelines were adopted in 1993.

DISCUSSION

The applicant proposes to construct a single-family residence on a property with a significant slope and with many mature trees. In an effort to comply with the City's Hillside Design Guidelines, the applicant has also requested a variance to build the house 12 feet from the front property line where 20 feet is required. The Planning Director has the authority to approve the

site plan review and variance applications, but because some neighbors have objected to the variance, the project is being referred to the Planning Commission.

The four bedroom, three and one half bath house is designed with two main levels. The house is designed to follow the slope of the property. The house is designed in a Southwest style with a free-form roof line accenting the front elevation. The elevations are simple with beige colored stucco. No trim is proposed around the windows. Staff is recommending a condition requiring the windows to be recessed in the wall to create additional architectural relief; this effect would be consistent with the style. The garage will be one of the most visible elements of the house when viewed from the street. The proposed door is a metal sectional door to be painted a dark brown color. A condition of approval included requires a more decorative garage door to be specified on the construction plans. To draw attention to the entry of the house and away from the garage would be to use a decorative material for the walkway leading to the front door. This has also been made a condition of approval. Other ways to make the front entry more visible include attaching a trellis over the door and/or using railings on the sides of the walkway.

Trees

There were 25 trees on the property within 200 feet of Parkside Drive. The rear sloping portion of the property is very dense with trees and shrubs. In the summer of 2002, 11 trees were removed without a tree removal permit. The City's Landscape Architect received a complaint and inspected the site and the applicant subsequently submitted an arborist report documenting all the existing and removed trees. The proposed house would require the removal of three more trees. Nine replacement trees are proposed to be planted around the proposed home. As a condition of approval, the City's Landscape Architect will require additional replacements that equal the value of those removed. The Fire Department would require trees to be trimmed to that the canopies are not within 10 feet of the structure.

Variance

The applicant has requested a variance to allow the house to be constructed 12 feet from the front property line where 20 feet is required. The garage would be 16 feet from the front property line, but a variance is not necessary for the garage portion of the house. Section 10-1.2725(d) of the Zoning Ordinance allows a garage to be as close as 5 feet from the front property line when the difference in elevation between the street and the front setback line exceeds 5 feet. In this case, the property drops 5 to 10 feet in the area between the street and the 20-foot setback line.

The proposed house has approximately 3,500 square feet of living area, which is at the upper end of the range of home sizes on Parkside Drive. Approximately 280 square feet of living area would be in the front yard setback; the majority of which would be on the upper level. Portions of the kitchen, stairway and half-bathroom would require adjustment or relocation without approval of the variance.

In order to approve a variance it must be found that the applicant is not being granted a special privilege inconsistent with the limitations upon other properties in the vicinity. Staff found that no similar variances to front yard setbacks have been issued in the neighborhood. However, most houses on Parkside were constructed prior to the adoption of the City's Hillside Design

Guidelines in 1993. Allowing the proposed house to be only 12 feet from the front property line will allow the house to be constructed with minimal grading and for the house to more closely follow the natural slope of the property and avoid the loss of additional trees.

The five lots ranging from 26382 to 26472 Parkside Drive are the most steeply sloped lots in the area with slopes ranging from 45 to 70 percent. The subject property is one of those five that have a 30-foot or more drop in elevation in the first 50 feet of horizontal distance from the street. A review of the building permits for the other four of the five steepest lots found that all four were built prior to 1993 and none of the four meets the Hillside Design Guidelines as they have more than 8 feet of under-floor height. Other areas of Parkside Drive have gentler slopes on the front portions of the lots. The area to the east of Tribune has slopes of 25 to 35 percent and the area near Home Avenue has slopes less than 10 percent.

The purpose of the RNP zoning district is to "allow for the development of area where topographic configuration is a major consideration in determining the most appropriate physical development of the land, and to allow such development only where it is subservient to and compatible with the preservation of major natural features of the land such as preserving the tree line in this zoning district." The reduced front yard setback would enable better preservation of the open space and trees and allow disturbance of the steep slopes to be minimized at the rear of the property.

Visually, there will be a 27-foot front yard setback because the paved surface of Parkside Drive is 15 feet from the front property line. The Precise Plan, which specifies the future limits of road widening, shows that the street will be widened 2 to 3 feet in the area of this property. The future visible setback would likely be approximately 24 feet from the edge of pavement to the house. No sidewalk is proposed as part of the Precise Plan. Furthermore, the front elevation of the house would have varying setbacks from 12 to 20 feet.

ENVIRONMENTAL REVIEW

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, New Construction or Conversion of Small Structures.

PUBLIC NOTICE

On August 29, 2002, an Official Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Old Highland Homeowners Association, Hayward Highlands Neighborhood Task Force, and the Hayward Area Planning Association.

Two neighbors from the OHHA area sent e-mails (see Attachment D) registering their opposition to the approval of the variance to the front yard setback requirement. Points raised in the e-mails include the following statements:

• That most of the properties in the area have many trees that help to reduce the visibility of the homes and that any reduction in the 20-foot setback would make it difficult to plant

replacement trees. It is noted that the trees removed were near the front of the property and that the replacement trees should also be near the front.

There are four large trees that would remain between the house and the street and four more replacement trees would also be planted between the house and the street.

• The design of the house is not "in keeping with the character of this neighborhood".

There are many different architectural styles of homes along Parkside Drive. Staff believes that the proposal is compatible among the different styles and the Hillside Design Guidelines encourage varied elevations.

On August 23, 2004, a Notice of Public Hearing for the Planning Commission meeting was mailed. In addition, a public notice sign was placed at the site prior to the Public Hearing to notify neighbors and interested parties residing outside the 300-foot radius.

CONCLUSION

The proposed project is consistent with the City's Hillside Design Guidelines and the house would be compatible with the surrounding neighborhood. Staff recommends that the Planning Commission approve the proposal. If the Commission denies the variance, the applicant could redesign the house to conform to the front setback. Without affecting the remainder of the footprint, the house would be reduced from 3,510 square feet to 3,230 square feet if the variance were denied.

Prepared by:

Erik J. Pearson, AICP

Associate Planner

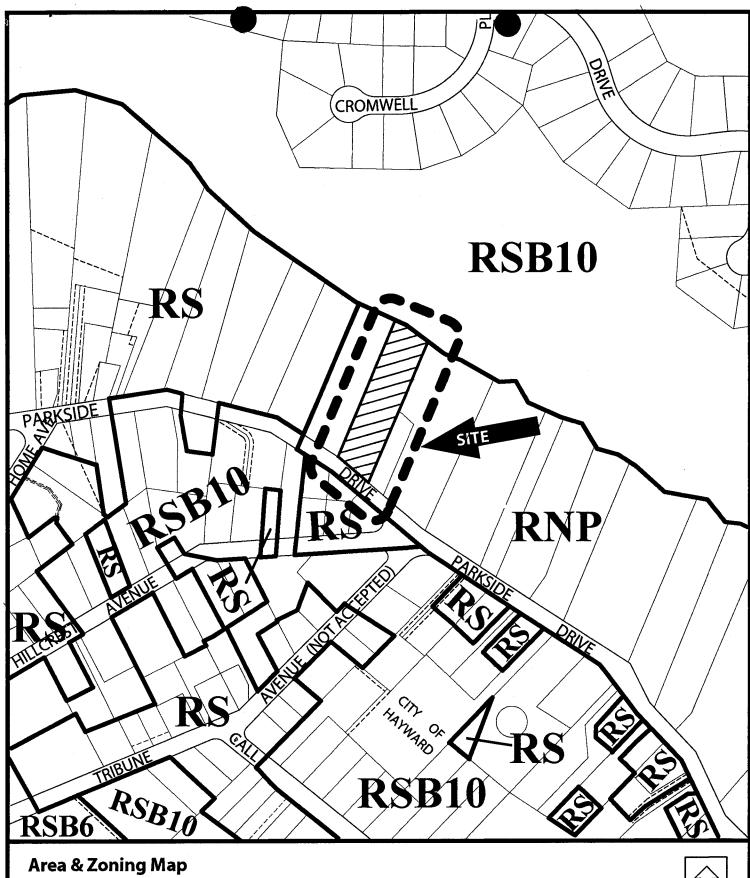
Recommended by:

Dyana Anderly, AICP

Planning Manager

Attachments:

- Area & Zoning Map A.
- B.
- Findings for Approval for Site Plan Review and Variance Conditions of Approval for Site Plan Review and Variance C.
- E-mails from neighbors D. Plans



PL-2002-0488/0487 VAR/SPR

Address: 26446 Parkside Drive

Applicant: Mr. & Mrs. John H. Johnson Owner: Mr. & Mrs. John H. Johnson **RNP-**Residential Natural Presevation **RS-**Single-Family Residential,RSB4,RSB6



CITY OF HAYWARD PLANNING DIVISION SITE PLAN REVIEW & VARIANCE APPROVAL

SEPTEMBER 9, 2004

<u>Site Plan Review No. PL-2002-0487 & Variance No. PL-2002-0488</u> — Request to Build a Single-Family Residence with a 12-foot Front Yard Setback Where 20 feet is Required — Mr. & Mrs. John Johnson (Applicant/Owner)

The Property is Located at 26446 Parkside Drive, near Tribune Avenue, in a Residential Natural Preservation (RNP) Zoning District

Findings for Approval:

A. Approval of Site Plan Review No. PL-2002-0487 & Variance No. PL-2002-0488, is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15303, New Construction or Conversion of Small Structures.

Site Plan Review

- B. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City in that the house has been designed in a southwest architectural style that is compatible in the eclectic single-family neighborhood.
- C. The development takes into consideration physical and environmental constraints in that the house has been well designed to follow the slope of the site, minimize tree removal and maximize open space.
- D. The development complies with the intent of City development policies and regulations including, but not limited to the Zoning Ordinance, the City's Design Guidelines and the Hillside Design Guidelines in that the building would respect the natural topography of the site with a stepped foundation that follows the slope of the property.
- E. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

Variance

F. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints such as the steep slope of the property. Setting the house further from the street would require more disturbance of the natural slope and vegetation.

- G. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification. Other nearby homes were built prior to the City's adoption of Hillside Design Guidelines when there were fewer restrictions pertaining to building on slopes.
- H. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. Most of the similar properties in the vicinity have been built upon and the subject property is one of the steepest in the area.

CITY OF HAYWARD PLANNING DIVISION SITE PLAN REVIEW & VARIANCE APPROVAL

SEPTEMBER 9, 2004

<u>Site Plan Review No. PL-2002-0487 & Variance No. PL-2002-0488</u> — Request to Build a Single-Family Residence with a 12-foot Front Yard Setback Where 20 feet is Required — Mr. & Mrs. John Johnson (Applicant/Owner)

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CONDITIONS OF APPROVAL:

General:

- 1. Site Plan Review No. PL-2002-0487 & Variance No. PL-2002-0488, are approved subject to the plans labeled Exhibit "A" and the conditions listed below. This permit becomes void one year after the effective date of approval, unless prior to that time a building permit application has been submitted and accepted for processing by the Building Official, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to the above date.
- 2. If a building permit is issued for construction of improvements authorized by the site plan review and variance approval, the site plan review and variance approval shall be void two years after issuance of the building permit, or three years after approval of the site plan review and variance application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the site plan review and variance approval.
- 3. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
- 4. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
- 5. Prior to application for a Building Permit, the following changes shall be made to the plans:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
 - b) The front wall shall be made thicker so that the windows can be recessed at least 2 inches.

- c) The garage and trash closet door shall be of a decorative design to be approved by the Planning Director.
- d) The site plan shall show that the concrete driveway will be colored to match the pervious pavers.
- e) Plans shall show a decorative material for the walkway leading to the front door.
- 6. Prior to issuance of a building permit:
 - a. The developer shall submit a soils investigation report to the satisfaction of the City Engineer.
 - b. The developer shall obtain a tree removal permit prior to the removal of any tree 8" in diameter, or larger. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
 - c. A Conservation Easement protecting the area below the proposed trench drain shall be recorded with the County Recorder. The Easement shall be on a form approved by the Planning Director.
- 7. Prior to final inspection all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
- 8. Violation of these conditions or requirements may result in the City of Hayward instituting a revocation hearing before the Planning Commission.

Landscaping:

- 9. Per the Tree Preservation Ordinance, each tree (exceeding 8-inches diameter) that was removed or is proposed to be removed with this plan shall be replaced with a tree of equal value to the tree that was or is being removed. These trees shall be native tree that will blend with the existing trees and preservation area. The landscape plan, including replacement trees, shall be approved by the City Landscape Architect prior to the issuance of a Building Permit.
- 10. Any tree that is to remain shall have sufficient room to grow to a mature size without a conflict with the structure when the construction is complete.
- 11. Existing trees which are to remain in place shall be thinned and trimmed to ISA standards and a bond equal to the value of the trees shall be posted with the City during construction and shall remain in place for a minimum of one year after the Certificate of Occupancy is issues for this site. Trees shall be protected in place with construction fencing and an arborist shall be on site when any work is being done within the dripline of any existing tree.
- 12. Slopes steeper than 3:1 shall be protected with jute netting prior to revegetation with sufficient fire resistant native plant material to provide 100% coverage within 2 years. This information shall be outlined on the approved Landscape plan. The landscape and irrigation plan should be done by a Licensed Landscape Architect.

Public Works:

- 13. Prior to the issuance of a building permit, a detailed grading and drainage plan prepared by a registered civil engineer shall be provided. The plan shall include sufficient detail to demonstrate existing and proposed drainage patterns (including street surface runoff), and that adequate drainage facilities are being provided.
- 14. A Grading Permit is required prior to any clearing, grubbing and grading of the site.
- 15. The street area adjacent to the project site shall be repaved prior to issuance of a certificate of occupancy for the home. The exact limits of work will be determined by the City Engineer. An encroachment permit is required for this and any other work to be completed in the right-of-way.
- 16. Prior to the issuance of a Building Permit, the property owner shall execute a Differed Street Improvement Agreement. The agreement form is available in the City Engineer's Office.
- 17. The proposed energy dissipater shall be located at a contour elevation acceptable to the City Engineer and the City Landscape Architect.
- 18. All graded or disturbed areas that will be idle during the rainy season shall be mulched at the rate of two tons per acre.
- 19. All retaining walls shall be reinforced concrete.
- 20. The water meter shall be located 12' 2" from the construction center line. The construction center line is shown on the Precise Plan Lines.
- 21. The minimum separation between the sanitary sewer lateral and the water service shall be 6 feet.
- 22. The Engineer shall design the proposed driveway grades by using the data shown on the City Precise Plan Lines, H 550, Sheet # 3.
- 23. The proposed curb and the driveway elevations shall conform to the Precise Plan Lines.
- 24. Landscape and planter areas in the street right-of-way shall be temporary and subject to being removed when the street improvement is installed.

Fire Department:

- 25. The structure shall have an automatic fire sprinkler system designed and installed per NFPA 13-D (Modified) Standards. The system shall provide fire sprinkler protection throughout the house, including attic areas, garage, under combustible decks and foyers, and within crawl spaces. The fire sprinkler system shall be submitted under a separate fire department permit for review and approval.
- 26. Trees shall be pruned to the satisfaction of the Fire Department. Tree canopies shall not be within 10 feet of the structure.

27. Building construction and fire protection requirements shall be implemented and shall meet the City of Hayward Hillside Design and Urban/Wildland Interface Guidelines. This includes, but is not limited to a Class A roof and exterior non-combustible siding.

Solid Waste & Recycling:

- 28. A Construction and Demolition Debris Recycling Statement must be submitted with the building permit application.
- 29. A Construction and Demolition Debris Recycling Summary Report must be completed, including weigh tags, at the COMPLETION of the project.

Erik Pearson

From:

Bruce Barrett [bruce@earthreflections.com]

Sent:

Monday, September 09, 2002 8:03 PM

To:

Erik Pearson

Subject:

26446 Parkside Drive Variance Request.

To:

Eric J. Pearson, AICP

Sept. 9, 2002

Associate Planner Planning Division City of Hayward 777 "B" Street Hayward CA, 94541

erikp@ci.hayward.ca.us

re: 26446 Parkside Drive Variance Request.

Dear Mr. Pearson,

I strongly oppose the requested variance (12 foot setback) for this property.

The majority of properties along this side of Parkside Drive are heavily wooded and "mask" the visual impact of the homes there. It would not be in keeping with the adjoining properties or the desired visual aspects of the neighborhood to allow such a variance.

Furthermore, the Owners of this property have cut a very large number of native oak trees near the front of this lot. They will need to replace these "in kind" if / when they build and these replacements should be between the house site and the street, not down-hill from the house.

Allowing a less than 20 foot setback would make it very difficult or impossible to mitigate the destruction they have already caused.

Thank you for your time.

Bruce Barrett Hayward Highlands Task Force Member.

Erik Pearson

From: Sent: Joy Faye Rowan [joy@joyfulgreetings.com] Tuesday, September 10, 2002 12:03 AM

To:

Erik Pearson

Cc:

vcave2@yahoo.com; hollyguier@hotmail.com; nharriso@csuhayward.edu;

natadoug@yahoo.com; burce@leland.stanford.edu; My Sweetie

Subject:

26446 Parkside Drive

To:

Eric J. Pearson, AICP Associate Planner Planning Division City of Hayward 777 "B" Street Hayward CA, 94541 Sept. 9, 2002

erikp@ci.hayward.ca.us

Re: Variance requested for proposed single family residence at 26446 Parkside Drive.

Dear Mr. Pearson,

I am a member of the OHHA Board of Directors and also a member of the Highlands Neighborhood Task Force. I regret that the timing of your postcard was such that there was not time to have a letter from the OHHA Board, so I must write as an individual.

The variance that these folks request (and the sketch of the house on the postcard) are not in keeping with the character of this neighborhood -- and particularly of the street where they want to build.

They have cut many native trees on their lot without seeking a permit, and I was designated by the OHHA Board to look into that (and have spoken with Lorna Carranza about it). They have also left the dry brush from their imprudent cutting lie there creating a fire hazard for the whole summer. As of last weekend, it was still there. I have spoken to Bill Mork about it and to the Fire Department, but the City seems short staffed in terms of getting it cleaned up.

I don't see any good reason for a setback variance other than to build something that is not in keeping with the neighborhood and that presents an "all building" front to the street, lacking in trees and landscaping. Lorna Carranza has said that the plans they've submitted do not show the remaining oak trees that are currently still standing along the street. It is not clear whether that means they intend to cut them also. Their plans must take into account the existing trees, how they will be protected during construction, and also show the size and positions for replacement trees.

In addition, it is not possible to tell from the sketch on the postcard whether this house follows the Hillside Design Guidelines, but it is of utmost importance that it do so. It must also adhere to the normal designated setbacks from the street and along the sides of the lot.

Another issue that must be considere whether the proposed building falls within the riparian zone and what the developer plans to do to protect that -- both in building distance from the creek and in construction practices during the actual construction.

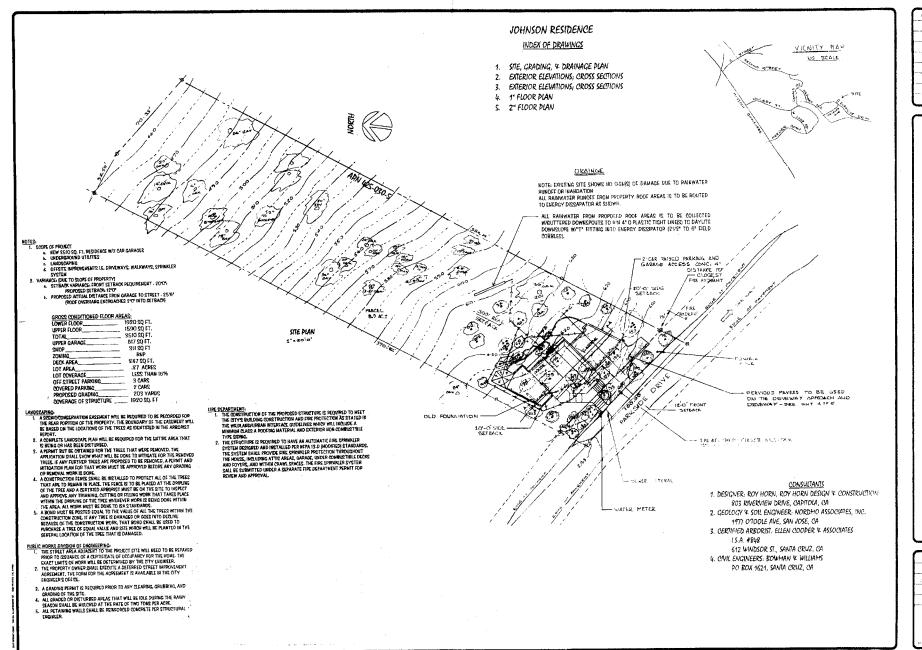
I trust that you and your department have already thought of most of the issues that I raise, but I know it is good for you to know what issues we care about up here in the neighborhood.

Keep up your good work!

Sincerely,

Joy Rowan 2675 Hillcrest Ave Hayward, CA 94542 510/ 537-3157

Joy Faye Rowan joy@joyfulgreetings.com



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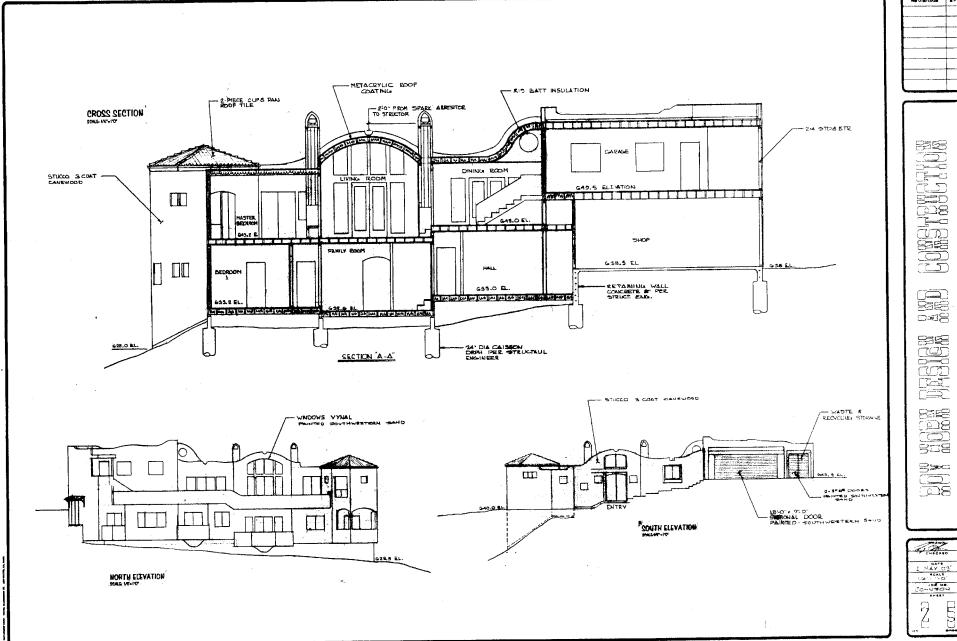
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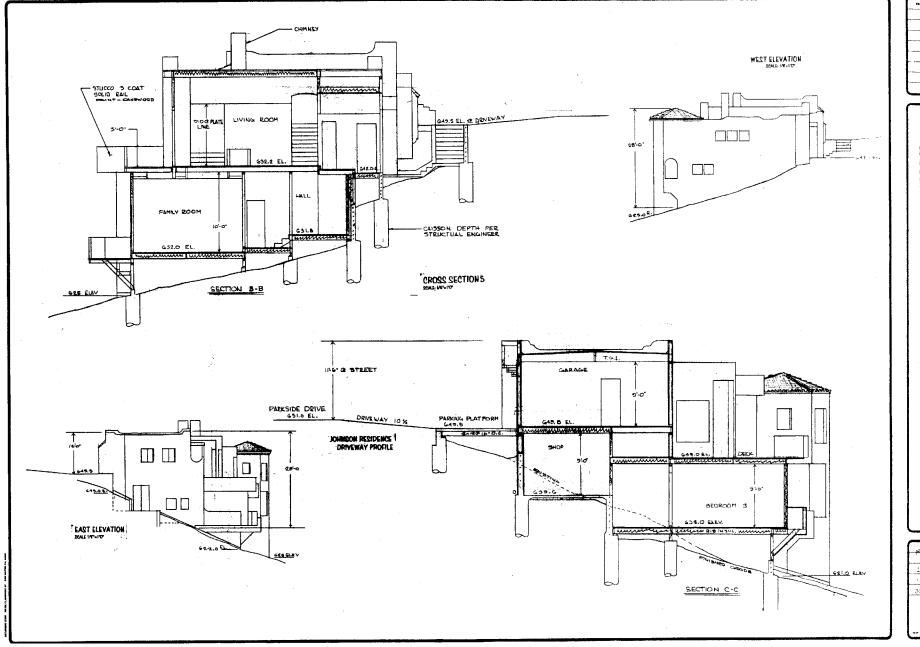
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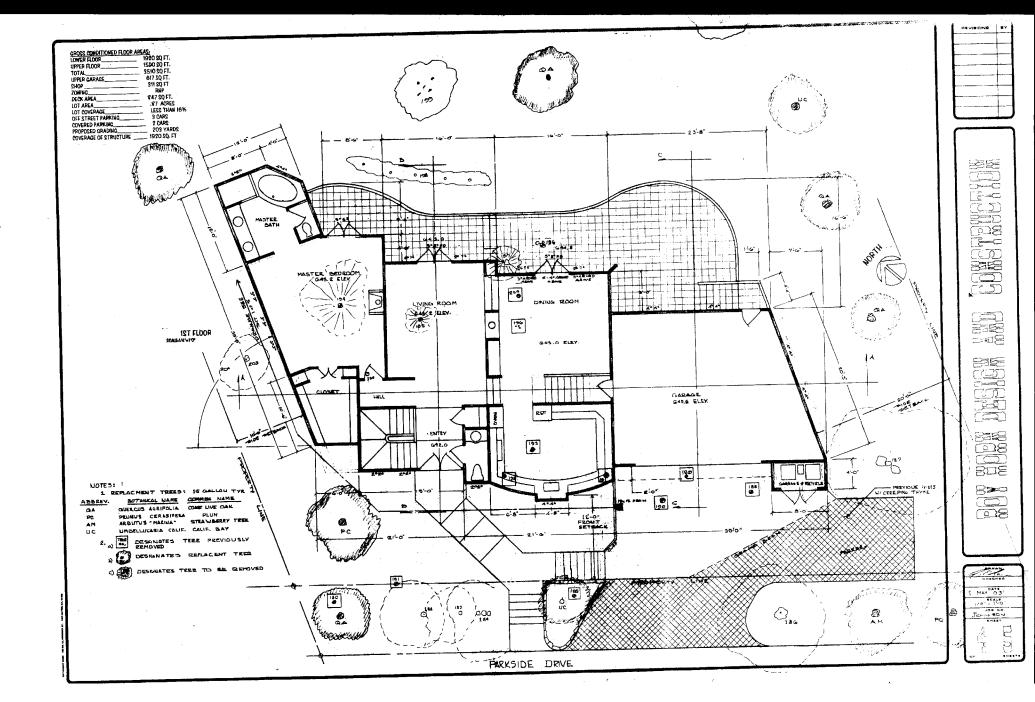
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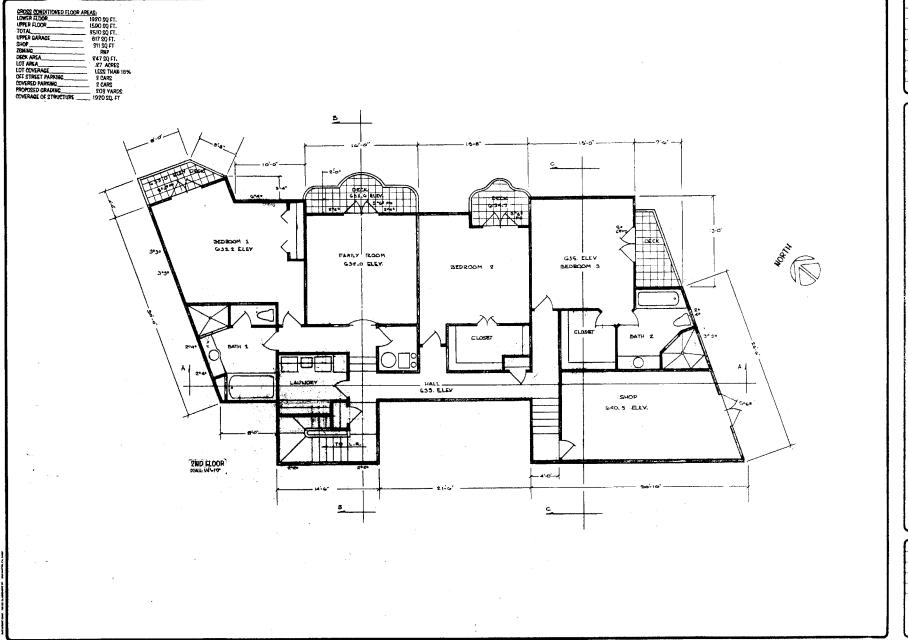


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